

REMARKS/ARGUMENTS

I. Status of the Case

In an Office Action dated November 1, 2007 ("the Office Action"), the Examiner rejected claims 10 and 12-16 under 35 U.S.C. § 112 and claims 10 and 12-19 under 35 U.S.C. § 102. The current Office Action is non-final.

A telephonic interview rescheduled a couple of times, was conducted on January 31, 2008. Applicant thanks Examiner Nguyen for his taking the time to conduct the interview. A separate report on that interview accompanies this amendment.

II. Applicant's Response to the Rejections and Objections

A. Claim Rejection Under 35 U.S.C. § 112

Regarding claim 10, the Examiner's objection to the term "a command transmitter" has been addressed by more clearly pointing out that the transmitter may be separate, so that the term "a system" has been selected for the preamble.

Regarding claim 17, the Examiner's objections to the term "transfer means" has been clarified by placing the transfer means in context. It is now clearly the means by which the command transmitter sends the program to the processor.

B. Claim Rejections under 35 U.S.C. § 103.

Claims 10 and 12-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,452,483 to Chen et al.

1. The Teachings of Chen et al.

Chen et al. discloses the relationship of a programming unit and a base unit. According to Chen et al., the programming units stores possible configurations of the base unit, and also transmits new values of configuration for the base unit to the base unit. Referring to Figure 4 of Chen:

In one embodiment of the invention, the remote programming unit and programming transmitter are embodied in a hand-held, battery operated device. The device contains a microcontroller and instruction memory as described for the base controller. The device also contains a programming memory. The programming memory holds a set of values that describe a possible configuration for the base controller. In one embodiment, this memory is embodied as a random access memory device (RAM). In this embodiment, the microcontroller accesses the RAM with interface signals well known in the art, such as address bus signals, chip select and write enable signals. In this embodiment, the RAM could be placed in a write mode by write-enabling the RAM device. The new values held by the

programming memory can be transmitted to the base controller and, loaded into the operation memory of the base controller to dictate the behavior of the base controller's functions. In one embodiment, the new values overwrite the original values (i.e., any values existing just prior to the reprogramming.)

2. The Claims Are Patentable Over Prior Art.

Claim 10, as amended, defines over the prior art for at least two reasons:

1. The program directly executable by the processing unit, not mere values of configuration parameters, is stored in the transmission unit; and
2. an executable program, not mere values of configuration parameters, is carried by the transfer means.

In the interview, the examiner questioned why the executable program transferred might not solely dictate the operation of the actuator. Reference is made to the last paragraph of page 8, and the first two paragraphs on page 9. As is made clear there, there can be both reprogrammable and unprogrammable operations, which is why the specification supports the transferred program not being the sole basis of operation. However, this does not subtract from the fact that the present application discloses and claims the transfer of executable programs, not merely configuration parameters.

With respect to the first item above, Chen et al. do not disclose that the programming unit 26 of Figure 4 stores a program directly executable by the processing unit 30 of Figure 4 as required by the present claims. Instead, Chen et al. discloses storing "a set of values that describe a possible configuration for the base controller."

With respect to the second item, Chen et al. disclose transmitting "new values" for a possible configuration of the base controller. Chen et al. do not disclose transmitting a program "directly executable" by the processing unit.

Claim 17, as amended, shares the quality of transmitting a program that is directly executable by the processing unit, and also shares the feature that the program alters how the processing unit operates the actuator. For these reasons, claim 17 is patentable just as claim 10 is patentable.

3. A Hypothetical Comparison

Consider the difference between a garage door opener operating according to the prior art and a garage door opener operating according to the claim 10. In this hypothetical

example, a program is executed in the garage door opener and that execution is used to provide to the user an acknowledgment by shining a light for one second.

According to the teachings of Chen:

Assume that the base unit has a program that brings about the lighting of a light of the garage door opener to inform the user that a command has been successfully received and/or executed. According to the technology disclosed in the prior art document US 6,452,483, it is possible to modify a parameter of the program, for example, the parameter setting the duration for which the light shines. If the light initially shines for 1 second, it is possible to send a configuration parameter to the garage door opener to modify this period and make the light shine for 2 seconds instead of one second. That is the limit of the disclosure of Chen because the disclosure teaches transmitting a set of parameters.

According to claim 10:

If the garage door opener initially operates as disclosed above (shining the light for 1 second), the program bringing about this operation may be replaced by a new executable program (initially stored in a command transmitter and transferred via transfer means). For instance, the new executable program instead of shining the light for acknowledging receipt and/or execution the program can cause a movement of the door to serve as acknowledgment of receipt and/or execution. It is possible to completely modify the mode of operation as well as a mere parametric change.

III. Closing Remarks


For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application; the Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the

Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920.

Respectfully submitted,

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By 

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